

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

POLY-AMERICA, L.P., §
§
Plaintiff and Counter-Defendant, §
§
v. § CIVIL ACTION NO. 1:21-cv-08195-AJN
§
API INDUSTRIES, INC., §
§
Defendant and Counter-Plaintiff. §

PLAINTIFF AND COUNTER-DEFENDANT'S NOTICE OF MOTION TO DISMISS

Plaintiff and Counter-Defendant Poly-America, L.P. ("Poly-America") hereby provides Notice that, pursuant to its contemporaneously filed Memorandum of Law, it moves the Court pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for an order:

- A. Dismissing Defendant API Industries, Inc.'s ("API") Counterclaim [Dkt #32] for lack of subject matter jurisdiction; or
- B. In the alternative, dismissing API's Counterclaim for failure to state a claim upon which relief can be granted.

Dated: March 28, 2022

Respectfully submitted,

CHAMPION LLP

/s/ Austin Champion

Austin Champion
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COUNSEL FOR POLY-AMERICA, L.P.

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service were served with a copy of this document through this Court's CM/ECF system and pursuant to the local rules on March 28, 2022.

/s/ Austin Champion

Austin Champion